IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.47 OF 1998
IN
SUIT NO.1 OF 1993

Fulwantibai C. Rathod & Ors. ...Plaintiffs
Vs.
M.K.Enterprises & Ors. ...Defendants

Ms.J.N.Sidhwa with Mrs. Moghe i/b. Mehta & Girdharlal Advocates for Plaintiffs.

Mr.H.S.S.Murthy with Mr. Piyush Shah Advocates for Defendants.

COMRAM: S.J. VAZIFDAR, J.
DATE: 2ND SEPTEMBER, 2004

P.C.

1. It is not necessary to go into the details of the disputes between the parties in the present matter. The Show-cause notice has been disposed of by the order dated 9th April, 2001. By that order the parties have filed consent terms which were taken on record. Clause (13) reserves liberty to the petitioners to apply.

2. It is not disputed that work as per the order dated 5th March, 1999 is yet to be completed. There is a dispute about the extent of the work. Upon taking instructions from their respective clients who are present in Court the parties have consented to the following order :-

(i) The Prothonotory and Senior Master

shall appoint an Architect from the Panel of Architects of this Court to make a report and submit an estimate of the cost that would be incurred to carry out the remaining work as per the order dated 5th March, 1999.

. The Architect shall consider whether the Respondent is entitled to any adjustment for the work that the Respondent has allegedly already carried out pursuant to the said order.

. The Architect shall submit his report within four weeks from today.

. The Architect shall visit the site after due intimation to both the parties. Both the parties shall be entitled to remain present during the visit of the Architect to the site.

(ii) The Respondent shall within four weeks of being served with the report of the Architect pay to the Petitioner the amount determined by the Architect.

(iii) The Petitioners shall be at liberty to carry out the said work through their own Architect/Contractors.

(iv) The parties shall be at liberty to adopt proceedings for the purpose of either enhancing or lowering the estimate stated by the Architect. It is however, clarified that in the first instance the amount determined by the Architect shall be paid by the Respondent to the Petitioners irrespective of his right to adopt proceedings to challenge the Architect report.

3. It is only in view of the aforesaid order being consented to that I refrain from issuing a fresh Show-cause Notice for contempt of Court.

4. Till the Architect’s report is filed no further construction shall be carried out by the Petitioners in the said property.

. Parties to act on the copy of this order duly authenticated by the Chamber Registrar/Court Stenographer of this Court.

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